

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

THOMAS PETTY,

Plaintiff,

v.

**GREAT WEST CASUALTY COMPANY
et al.,**

Defendant.

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Civil Action No. **3:17-CV-2526-L**

ORDER

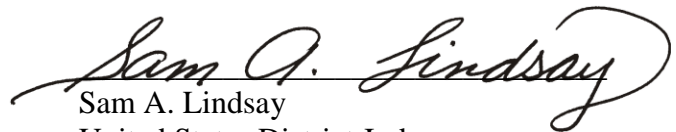
Before the court is Plaintiff's Motion to Remand (Doc. 6), filed September 19, 2017. On October 13, 2017, Magistrate Judge David L. Horan entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"), recommending that Plaintiff's Motion to Remand be denied because Defendant is not a citizen of Texas and complete diversity does exist, as Defendant is a citizen of Nebraska. No objections to the Report were filed.

Having reviewed Plaintiff's Motion to Remand, response, pleadings, file, record in this case, applicable law, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **denies** Plaintiff's Motion to Remand (Doc. 6).

Further, the court determines that Plaintiff has failed to state a claim upon which relief may be granted, and Plaintiff's motion to dismiss should be granted. Accordingly, to avoid further delay, the court (1) **vacates** the order of reference with respect to Plaintiff's Motion to Dismiss; (2) **grants** Defendant Great West Casualty Company's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. 5); (3) **grants** Plaintiff's Motion for Leave to File Amended Complaint (Doc. 15); and (4) **directs** Plaintiff to file an amended pleading setting forth the factual

bases that show he is entitled to the relief he seeks. Plaintiff shall file an amended pleading by **December 1, 2017**. If Plaintiff fails to amend as herein directed, this action may be dismissed with prejudice pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted, or dismissed without prejudice pursuant to Rule Federal Rule of Civil Procedure 41(b) for failure to comply with a court order.

It is so ordered this 1st day of November, 2017.


Sam A. Lindsay
United States District Judge